

1st Nov, 2022

1. Learned counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Bahramand Khan, Asst: Director for respondents present.

02. Learned Addl: AG produced copy of order dated 16.03.2020, whereby the petitioner was removed from service. Learned counsel for the petitioner submits that since this order was communicated today during the pendency of execution petition and the petitioner feels himself aggrieved of the same and wants to challenge the same. As regard this petition it has outlived its utility. Consign.

03. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 1st day of November, 2022.*

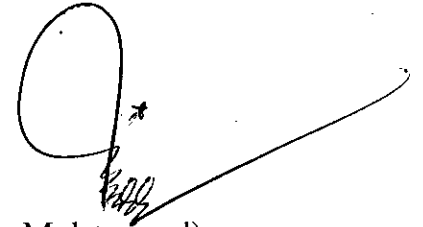


(Kalim Arshad Khan)
Chairman

23.09.2022

Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Learned counsel for the petitioner argued the case on restoration execution petition in question and stated at the Bar that the execution petition was dismissed in default on 30th May, 2022 and on the very next date i.e. 31st May, 2022 application was moved for obtaining attested copy of the order sheet. However, attested copy of the order sheet dated 30th May, 2022 was provided on 27.06.2022 whereafter application for restoration was submitted on 28.07.2022. Learned counsel for the appellant could not justify the delay of one month even after having obtained attested copy of the order sheet. Learned Additional Advocate General on the other hand, did not object on restoration of the execution petition subject to imposition of cost. The execution petition is restored subject to the cost of Rs. 2000/- under Rule 19(3) of the Khyber Pakhtunkhwa Service Tribunal Rules 1974. The execution petition is restored to its original Number. Adjourned. To come up for further proceedings on 01.11.2022 before the S.B.



(Mian Muhammad)
Member (E)



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

Phone: 091-9225344

Email: ddadmn.esc@gmail.com

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NOTIFICATION

1. **WHEREAS**, Mr. Elahi Bakhsh appellant had submitted his service appeal in the Khyber Pakhtunkhwa Service Tribunal Peshawar vide appeal No. 1303/15 titled "Elahi Bakhsh verses Director. E&SE and others" for adjustment /release of monthly salary.
2. **AND WHEREAS**, the Khyber Pakhtunkhwa Service Tribunal converted his appeal in presentation vide judgment dated 17/12/2018 with the direction to Director E&SE KP, "To Examine the relevant record as to whether, the appellant has performed his duty or he remained absent since 2003 and thereafter decided the departmental appeal within period of 90 days from receipt of copy of this judgment through speaking order.
3. **AND WHEREAS**, to find out the factual position of the case, the Director (Appellate Authority) conducted enquiry by appointing Mr. Misri Khan Ex-SDEO (M) Town-I Peshawar vide office order No 4676-78 dated 15/03/2019.
4. **AND WHEREAS**, the enquiry officer submitted his report dated 09/05/2019, wherein it has been found that Mr. Elahi Bakhsh remained absent from duty since his adjustment as Elementary Teacher from 25/06/2003 to date i.e 09/05/2019, as there is no record of his attendance in the concerned school.
5. **AND WHEREAS**, Mr. Elahi Bakhsh Ex-Daftari DEO (F) Peshawar subsequently adjusted as key punch operator/Elementary Teacher BPS-05 at GMPS Ghari Qamar Din Peshawar was proceeded under E&D Rules 2011 and removed from service vide Notification issued under Endt.No. 944-50 dated 09/10/2019 by the District Education Officer (M) Peshawar.
6. **AND WHEREAS**, The Director E&SE Khyber Pakhtunkhwa, Appellate Authority after having considered the findings/recommendations of the enquiry officer and perusal of record is satisfied that the charge of willful absence from duty has been proved against the appellant Mr. Elahi Baksh, Ex-Daftari/Elementary Teacher.
7. **NOW, THEREFORE**, the Appellate authority the Director E&SE KP under the provision of Rules-17 2(a) of E&D Rules-2011 has decided to uphold the major penalty of removal from service in r/o Mr. Elahi Bakhsh Ex-Daftari/Elementary Teacher GMPS Ghari Qamar Din Notified by the DEO (M) Peshawar vide Notification No 944-50 dated 09/10/2019.

Director

Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: No. 7616-19 F.No. /A-23/MS/ElahiBakhsh Dated Peshawar the 16/3/2020.

Copy of the above is forwarded for information and n/action to the:-

- 1- District Education Officer (Male) Peshawar
- 2- District Account Officer Peshawar.
- 3- Appellant concerned.
- 4- PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.

Assistant Director (Admn)

Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

30th May, 2022

1. Nemo for the petitioner. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

2. On the last date notice was directed to be issued to the petitioner and his counsel, which was duly issued through registered post. Today the execution petition was called time and again but neither petitioner nor his counsel put appearance. In view of the above, the execution petition is dismissed in default.

3. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 30th day of May, 2022.*

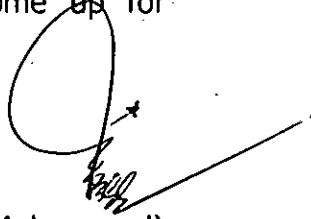


(Kalim Arshad Khan)
Chairman

31.01.2022

Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

Learned AAG seeks requested for a short adjournment on the ground that proper implementation report will be submitted on the next date. Request is acceded to. To come up for implementation report on 02.02.2022 before S.B.


(Mian Muhammad)
Member(E)

02.02.2022

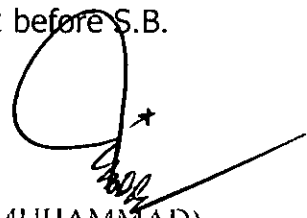
Junior of learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present. Respondent's arguments could not be heard due to learned Member (Executive) Mian Muhammad is on leave. To come up for further proceedings on 22.03.2022 before S.B.


Reader

22.03.2022

None for the petitioner present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Touseef Ur Rehman, ADEO for the respondents present.

Notices be issued to the petitioner as well as his counsel. To come up for implementation report on 30.05.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER(E)

30.09.2021

Nemo for the petitioner. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

M Shah
6/10/21

Notices be issued to the petitioner and his counsel. To come up for further proceedings before the S.B on 29.11.2021.


(MIAN MUHAMMAD)
MEMBER (E)

15.11.2021

Nemo for the petitioner. Mr. Ziaullah, SDO, Mr. Haseen Ullah, Assistant and Mr. Arshad Ali, ADO (Litigation) alongwith Mr. Javed Ullah, Assistant Advocate General for the respondents present.

Notice be issued to the petitioner as well as his counsel and to come up for further proceedings before the S.B on 03.01.2022.

M Shah
Sy Ullah Ali
14/12/2022


(Salah-Ud-Din)
Member (J)

03.01.2022

Clerk to counsel for the petitioner present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Clerk to counsel for the petitioner requested for adjournment as counsel for the petitioner is not available today. Adjourned. To come up for further proceedings on ~~31.01~~ 31.01.2022 before S.B.


(Atiq-Ur-Rehman Wazir)
Member (E)

05.08.2021

Petitioner with counsel. Mr. Kabirullah Khattak, Addl. AG
alongwith Tauseefur Rehman, ADO for the respondents present.

In pursuance to the observation for clarification on part of the
petitioner given in the previous order dated 14.06.2021, arguments
of learned counsel for the petitioner as well as learned AAG heard.

It is a matter of fact that the departmental appeal referred in
the judgment of this Tribunal was not regulated in consequence of
any disciplinary proceedings. Rather it was a general appeal by the
petitioner to the departmental authority for the release of the
salary. What was required by the department in pursuance to
judgment of this Tribunal, was to decide the departmental appeal
mentioned before by a speaking order within the scope of
formulated question in the operative part whether the appellant
(present petitioner) had performed his duty regularly or he was
absent since 2003. According to the order dated 16.03.2020, the
question referred to the department for decision was not decided
under the relevant term. Rather it is mentioned in Para-5 of the
order dated 16.03.2020 that the petitioner was proceeded against
under E&D Rules, 2011 and removed from service vide order
dated 09.10.2019 by the DEO (M) Peshawar. How it happened
that the question referred to the department was diverted to the
disciplinary proceedings under E&D Rules, is a matter, for
clarification by the department before further necessary
proceedings in the matter of Execution Petition. Let the department
come up with this clarification on 30.09.2021 before S.B.


Chairman

18.02.2021

The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 19.04.2021.


Reader

19.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 14.06.2021 for the same as before.


Reader

14.06.2021

Petitioner in person and Mr. Kabirullah Khattak, Addl. AG alongwith Hayat Khan, AD and Tauseefur Rehman, ADO for the respondents present.


Learned AAG has referred to the notification of the Directorate of E&SE bearing No. 7616-19 dated 16.03.2020 and according to the contents of the said notification, the departmental authority after treating the appeal as representation in the light of judgment of the Tribunal has passed the order of petitioner's removal from service and said order has been upheld by the Departmental Appellate Authority vide order dated 16.03.2020, submitted before the court today. Counsel for the petitioner is not in attendance today. It is required on the part of the petitioner to clarify that what is left out of the judgment of this Tribunal for compliance. Adjourned to 05.08.2021 before S.B.


Chairman

case of any grievance he can agitate the matter through filing of service appeal that course is open to him which can be availed.

On the other hand, learned counsel for petitioner while making reference to para-6 of judgment submitted that no where any order with regard to conducting of de-novo inquiry has been passed by the Tribunal in its judgment. He referred to a notification dated 27.06.2019 by virtue of which order for adjustment of petitioner has been made however, respondents are reluctant to produce that notification for perusal and appropriate order. Respondents have been directed right on 20.02.2020 by this Tribunal which has been followed in order sheet dated 18.11.2020 however, that very piece of document has not been produced. He further submitted that he himself alongwith petitioner has observed the presence of one Attaullah Jan Assistant Director Accounts Elementary & Secondary Education nevertheless he has not attended the Tribunal deliberately and purportedly deputed Mr. Qaiser Ali Superintendent to attend in his stead.

3. Apart from and in addition of the directions as contained in the judgment of this Tribunal dated 17.12.2018 at this juncture it is deemed appropriate to order the respondents once again to verify the authenticity of notification dated 20.02.2020 so as a clear picture is depicted as regards its contents. It is quite noticeable as to why respondents are reluctant to produce that very document, it axiomatic that they are avoiding its production unless and until the referred to notification dated 20.02.2020 has not been authenticated from the proper office respondents cannot exonerate themselves from the discharge of the heavy burden. It may be noted at this stage that respondents are playing dilly dallying with the Tribunal for which they cannot be allowed, therefore, respondents are directed once again to comply with the orders passed by this Tribunal dated 20.02.2020 as well as 18.11.2020 by the officer himself. File to come up for record and its verification on 18.02.2021 before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

18.11.2020

Petitioner with counsel and Addl; AG alongwith Abdul Wahid, Litigation Officer for the respondents present.

The representative of respondents under takes to apprise the Assistant Director (Admin) Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar regarding the order dated 20.02.2020. The concern officer shall appear with the record as noted in the order sheet dated 20.02.2020. He may provide other record relevant for the purpose of proceedings in hand.

Adjourned to 06.01.2021 before S.B.



Chairman

06.01.2021

Petitioner in person alongwith Syed Noman Ali Bukhari, Advocate, are present. Mr. Kabirullah Khattak, Additional Advocate General alongwith representatives of the department Mr. Qaiser Ali, Superintendent, and Mr. Abdul Wahid, Litigation Officer, for the respondents are also present.

The gist of what has been agitated at the bar by the learned Additional Advocate General appearing on behalf of respondents is that, order passed for de-novo inquiry was made by the Service Tribunal in its judgment dated 17.12.2018 and in compliance thereof inquiry was made in consequence of which the impugned order dated 09.10.2019 was passed resulting into imposition of major penalty of removal from service and by keeping the intervening period with effect from 25.06.2003 as unauthorized absence from duty without pay, departmental appeal was moved which was rejected by maintaining the impugned order referred to above vide notification dated 16.03.2020 passed by the Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar. In the judgment of this Service Tribunal petitioner was directed in unequivocal terms that in

11.08.2020

Petitioner in person and Addl. AG alongwith Irfanullah, Assistant for the respondents present.

The representative of the respondents has submitted copy of notification dated 16.03.2020, whereby the major penalty of removal from service against the petitioner has been upheld. The petitioner, on the other hand, requests for adjournment due to indisposition of his learned counsel.

Adjourned to 28.09.2020 for further proceedings before S.B.


Chairman

28.09.2020

Petitioner in person and Addl. AG alongwith Abdul Wahid, Litigation Officer for the respondents present.

Syed Numan Ali Bukhari, Advocate has submitted Wakalatnama on behalf of the petitioner and requests for time to prepare the brief. Adjourned to 18.11.2020 before S.B.


Chairman

the order of departmental authority.

On the other hand, learned Additional AG as well as representative of the department present in the court namely Arshed Ali stated that they do not know about the letter dated 27.06.2019 as to whether the same is genuine or otherwise, therefore, the departmental authority i.e Assistant Director Admin Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar be directed to personally attend the Tribunal about the genuine or otherwise of the aforesaid letter dated 27.06.2019. To come up for further proceeding on 01.04.2020 before B.B.



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

01.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 24.06.2020 for the same. To come up for the same as before S.B.


Reader

24.06.2020

Petitioner in person and Addl: AG alongwith Mr. M. Arshad, ASDEO and Mr. Muhammad Irfan, Assistant for respondents present. Representative of the respondents submitted implementation report which is placed on file. Petitioner seeks time to go through the said implementation report. To come up for further proceedings on 11.08.2020 before S.B.



MEMBER

08.01.2020

Petitioner in person and Addl. AG alongwith M/S Muhammad Arshad, ADEO and Zakiullah, Senior Auditor for the respondents present.

The representative of respondent department seeks time to make available the copy of the order of departmental appellate authority regarding decision of appeal of petitioner as required through judgment under implementation.

Adjourned to 20.02.2020 for further proceedings before S.B.

Chairman 

20.02.2020

Petitioner alongwith his counsel and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Arshed Ali, ADO for the respondents present.

The petitioner was serving as Elementary Teacher (BPS-5). The respondent-department has stopped his salary. After availing the remedy of departmental appeal, the appellant filed service appeal which was partially accepted and the departmental authority i.e Director Elementary & Secondary Education Khyber Pakhtunkhwa was directed to examine the relevant record as to whether the appellant has performed his duty regularly or remained absent since 2003 and thereafter decide the departmental appeal within a period of ninety days from the receipt of copy of this judgment through speaking order, the said order shall be communicated to the petitioner and thereafter if the petitioner was aggrieved, he was at liberty to file fresh service appeal subject to all legal objection vide detailed judgment dated 17.12.2018. Learned counsel for the petitioner pointed out that the departmental appeal was accepted by the departmental authority and the departmental authority i.e Assistant Director Admin Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar directed the competent authority i.e District Education Officer (Male) Peshawar to adjust the petitioner at any suitable post (preferably as Laboratory Assistant) in District Peshawar under intimation to this office vide letter dated 27.06.2019 but the competent authority has not honor

25.10.2019

Petitioner in person present. Mr. Zia Ullah learned Deputy District Attorney for the respondents present.

Despite notice, none of the representatives of respondents is in attendance. They shall be repeated notices for next date of hearing alongwith copy of instant order. In case, the respondents remain unrepresented on the adjourned date, punitive action will be initiated against the defaulting official(s).

Adjourned to 28.11.2019 before S.B


Chairman

28.11.2019

Nemo for petitioner. Mr. Usman Ghani District Attorney alongwith Muhammad Arshad, ADO for respondents present.

The representative of respondents has submitted reply to execution petition signed by District Education Officer (Male) Peshawar. It is noted in the reply that the petitioner has been removed from service as a consequence to departmental proceedings. The reply is placed on record. To come up for further proceedings on 8.01.2020 before S.B.


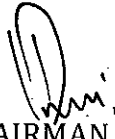

Chairman



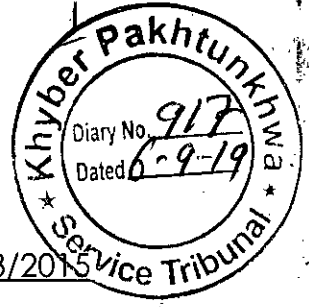
Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 333/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	06.09.2019	<p>The execution petition of Mr. Elahi Bakhsh submitted today by him may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR</p>
2-	11/09/19.	<p>This execution petition be put up before S. Bench on <u>27/09/19.</u></p> <p> CHAIRMAN</p>
	26.09.2019	<p>Petitioner in person present.</p> <p>Issue notices to respondents for submission of implementation report on 25.10.2019 before S.B.</p> <p> Chairman</p>

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.



Execution Petition No. 333 /2019 in Service Appeal No: 1303/2015

Elehi Bakhsh Daftari office of the District Education Officer(Male) Primary
Peshawar & Resident of House No.1 Street No.4 Quaid Abad Colony Peshawar

.....Appellant/Petitioner

VERSUS

Director, (E&SE) Department, Khyber Pakhtunkhwa & others.

.....Respondents

**EXECUTION PETITION FOR THE IMPLEMENTATION OF JUDGEMENT DATED
17/12/2018 IN THE TITLED SERVICE APPEAL ON BEHALF OF THE
APPELLANT.**

Respectfully Sheweth :-

The Appellant/Petitioner submits as under:-

1. That the titled service Appeal was pending for disposal before this Hon'able Tribunal & has been decided in favour of the appellant/Petitioner vide judgment dated 17/12/2018 with the direction to the respondent Department to decide the Departmental Appeal of the Appellant within "90" days from the receipt of this Judgment through a speaking order. (Copy of the judgment is attached).
2. That aggrieved from the judgment dated 17/12/2018, the respondent has approached the Government of Khyber Pakhtunkhwa Law Department for filing of CPLA against the said judgment in the august Supreme court of Pakistan which was made as an un-fit case for CPLA on the ground of being badly time barred, hence the judgment dated 17/12/2018 of this Hon'able Tribunal has got finality & liable to be implemented by the respondent Department.

3. That the appellant has filed an application to the District Education Officer concerned for the implementation of the judgments dated 17/12/2018 who forwarded the case to the Appellate Authority i.e. Worthy Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar & consequent upon the same, an inquiry was conducted who submitted his report in favour of the appellant on Qamar Din Peshawar copy of the Notification is annexed "B"
4. That the Director, (E&SE)Khyber Pakhtunkhwa, Peshawar appellate authority vide his letter No.5227 dated 27/6/2019 has directed the District Education Officer(Male) Peshawar to adjust the appellant preferably as Laboratory Assistant (Copy of the letter is Annex "C").
5. That inspite clear cut judgment of this Hon'able Service Tribunal & directions of the appellate authority, the District Education Officer(Male) Peshawar is reluctant to Implement the judgment dated 17/12/2018 of this Hon'able Tribunal on malafide intention & has committed contempt of Court.

Therefore, it is most humbly prayed that on the acceptance of this Petition, this Honorable Tribunal may very graciously be pleased to direct the respondents to implement the judgement dated 17/12/2018 of this Hon'able Tribunal in the titled case in true, letter & Spirit & interest of justice.

Dated ___ / ___ /2019



**Petitioner
Elahi Bakhsh**

S/O Karim Bakhsh

**Daftari BPS-4
District Education Officer(Male)
Peshawar.**

AFFIDAVIT

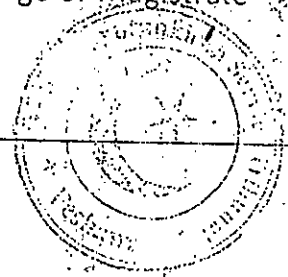
I, **Elahi Bakhsh** S/O Karim Bakhsh Daftari District Education Officer(Male) Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant Execution Petition in the titled Service appeal are true & correct to the best of my knowledge & belief & that nothing has been concealed from the ambit of this Honorable Tribunal.


Deponent

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
		<p style="text-align: center;">BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL Appeal No. 1303/2015.</p> <p>Date of Institution : 23.11.2015 Date of Decision : 17.12.2018</p> <p>Elahi Bakhsh S/o Karim Bakhsh R/o House No-1 Street No.4, Qaidabad Colony No-2, Peshawar.</p> <p style="text-align: right;">-----Appellant</p> <ol style="list-style-type: none"> 1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar. 2. District Education Officer Elementary & Secondary Education (Male) Peshawar. 3. District Education Officer Elementary & Secondary Education (Female) Peshawar. 4. The Accountant General Khyber Pakhtunkhwa at Peshawar. 5. District Account Officer. 6. Govt. of Khyber Pakhtunkhwa through Secretary Education (Elementary & Secondary Education) Peshawar. <p style="text-align: right;">-----Respondents</p> <p>Mr. Muhammad Amin Khan Kandi.....Member Mr. Hussain Shah.....Member</p> <p>JUDGMENT <u>HUSSAIN SHAH, MEMBER:-</u> Learned counsel for the appellant and Mr. Riaz Paindkhel learned Assistant Advocate General on behalf of the respondents present.</p> <p>2. The appellant was appointed on 06.01.1991 as Daftari in BPS-2 in the District Education Officer (Female) Peshawar. During the service in that capacity he was promoted to BPS-4. Due to Surplus Policy of 2001 he was declared as surplus and assigned to Surplus Pool on 01.11.2001. He was adjusted as Data Entry Operator in the office of EDO Peshawar. Later on he was adjusted</p>

17.12.2018

MAY 14 2018



against the vacant post of Elementary Teacher in BPS-5 in GPS Garhi Qamar Din Peshawar on 25.06.2003. Meanwhile respondents No.4 stopped his salary. The appellant preferred the appeal to director Elementary and Secondary Education wherein all the relevant facts were explained but no action was taken in pursuance of his appeal hence the appellant preferred the instant service appeal to this tribunal.

3. The learned counsel for the appellant argued that the appellant was suffered due to the illegal omission and commissions of the respondents. He further argued that it was the responsibility of the respondents to adjust the appellant against a suitable post in the department but they failed to do so. Hence on the acceptance of the instant appeal the respondents may be directed to release the salary along with other immunities of the appellant since June, 2003 and the appellant maybe adjusted in any of the Government Department.

4. In the Para wise comments of the respondents department the facts regarding the adjustment of the appellant against the post of Data Entry Operator in office of EDO and his subsequent adjustment against the post of Elementary Teacher in BPS-5 in GPS Gahri Qamar Din has been admitted. It has also been stated that his departmental appeal was submitted on 05.08.2015 after the lapse of about twelve (12) years.

5. The learned Assistant Advocate General argued the case on behalf of respondents raised the point that since 2003 the appellant

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remained silent and did not raised the issue till 05.08.2015, and preferred departmental appeal after lapse of about twelve (12) years. He further argued that for twelve (12) years period he remained absent from duty which indicates his malafide hence having no cause of action to approach this tribunal the appeal may be dismissed with costs.

6. The perusal of record reveals that the appellant was adjusted on in post of Elementary Teacher in BPS-05 in Government Primary School, Ghari Qamar Din, vide order dated 25.06.2003 The respondents department has not paid salary since his adjustment order dated 25.06.2003 but the appellant has filed departmental appeal for releasing his salary on 05.08.2015 though departmental appeal has been filed after sufficient delay but there is plethora of judgment of the superior court that limitation does not run in the appeal relating to financial matter. Since the appellant has sought relief for salary. Therefore in our view the limitation does not run in the present appeal being pertain to the financial matter. More over the respondents department has mainly pleaded in the comments that the respondents-department has not performed duty therefore, he was not entitled to the salary it is also proved from the record that the appellant has filed departmental appeal but the same was not decided. Therefore in order to arrive correct conclusion we deem it appropriate to direct the departmental authority i.e. Director Elementary & Secondary Education Khyber Pakhtunkhwa to examine the relevant record as to whether the appellant has

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performed his duty regularly or he remained absent since 2003 and thereafter decide the departmental appeal with in a period of Ninety (90) days from receipt the copy of this judgment through speaking order. The same order also be positively communicated to the appellant and therefore if the appellant was aggrieved. He is at liberty to file fresh service appeal subject to all legal objection. The appeal is disposed off in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

Muhammad Amin
 (Muhammad Amin Khan Kundi)
 MEMBER

Hussain Shah
 (HUSSAIN SHAH)
 MEMBER

ANNOUNCED
 17.12.2018

Copy of this judgment copy
[Signature]
 Chairman
 Service Tribunal
 Peshawar

Cost of Court	1000	06-03-19
Stamp	10.00	
Light	2.00	
Total	12.00	
	<i>[Signature]</i>	06-03-19
		06-03-19

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DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION,
KHYBER PAKHTUNKHWA, PESHAWAR.

NOTIFICATION

Consequent upon the approval of the competent authority, Mr. Mistri Khan, Sub Divisional Education Officer BPS-17 Town-II, District Peshawar is hereby Nominated as enquiry Officer in Service Appeal No. 1303/2015 case titled Elahi Bakhsh versus Director E&SE, Khyber Pakhtunkhwa, Peshawar & others to submit his enquiry Report within "10" days from the receipt of this Notification with the following TOR's:

To check and verify:-

1. The first appointment Order bearing No.3006-10 dated 06/01/1991 against Daftri Post in BPS-02 in the office of DEO(Female) Peshawar.
2. The Office Order dated 10/01/2002 of the Deputy Director Establishment Primary Education NWFP, Now Khyber, Pakhtunkhwa, Peshawar vide which the appellant has been made surplus by placing his services at the disposal of the then Executive District Officer S&L Peshawar.
3. The Transfer order No.14642-55 dated 25/06/2003 issued under the signature of the then DDO Primary Peshawar.
4. The written statement recorded by Mr. Sadiq Shah Ex Head Teacher GPS No.1 Garhi Qamar Din, Cantt Circle to the extent of non arrival & performance of official duty by the appellant namely Elahi Bakhsh Daftri.
5. To check & verify the Attendance Register of GPS Garhi Qamar Din, District Peshawar w.e.f 1st May, 2003 till September 6th, 2003.
6. The Departmental Appeal of the appellant received vide dairy No.1104 dated 05/08/2015 to the Directorate of E&SE Khyber Pakhtunkhwa, Peshawar.
7. The Order dated 26/12/1995 regarding grant of selection Grade to the appellant from BPS-2 to BPS-4 in the Service Book of the appellant.
8. The record regarding his adjustment against the data entry operator in the office of the then Executive District Officer, Peshawar.
9. The claim of the appellant regarding his promotion against the Elementary Teacher in BPS-5 along with his adjustment at GPS Garhi Qamar Din vide Order dated 25/06/2003 issued by the then Executive District Officer, Peshawar.
10. The claim regarding taking over charge in the said School & submission of LPC to the DEO (Male) Peshawar.

Director

Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.

Endst: No. 1676-78 DA 15/3 /DD Litigation E&SE

Copy forwarded to the:-

1. District Education Officer (Male) Peshawar, with the remarks to provide necessary record to the Enquiry Officer as & when required.
2. District Education Officer (Female) Peshawar, with the remarks to provide necessary record to the Enquiry Officer.
3. SDEO (Male/Female) concerned with the remarks to provide necessary record to the Enquiry Officer.

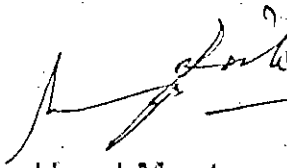
15/3/19
Deputy Director (Litigation)

Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.

DUTY PERFORMANCE CERTIFICATE

Certified that Mr. Elahi Bakhsh Daftri office of the District Education Office (Female) Primary Peshawar was adjusted as Elementary teacher in BS-05 at GMPS Ghari Qammar Din Peshawar vide Executive District Officer (School & Literacy) Peshawar Endst. No. 14642-55 dated 25-06-2003 already recorded and signed by DDO (Male) Peshawar vide on page-21.

I further certified that Mr. Elahi Bakhsh was taken over the charge of the post at GMPS Ghari Qammar Din Peshawar at this School on 29-07-2003 (Copy of the Charge report attached) & performed his duties punctually and regularly.


Head Master
GMPS Ghari Qammar Din Peshawar
HEAD MASTER
G.P.S No.1
Ghari Qammar Din Peshawar

To

10

The District Education Officer, (Male)
Elementary & Secondary Education, Peshawar.

Subject: -

IMPLEMENTATION OF THE JUDGEMENT OF LEARNED KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR DATED 17-12-2018 IN SERVICE APPEAL NO.1303/2015 TITLED ELAHI BAKHSH VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA & OTHERS.

Respected Sir,

With due respect it, is stated that the leaned Khyber Pakhtunkhwa, service Tribunal, Peshawar has been decided the instant case on 17-12-2018 in my favour. (Copy attached for ready reference).

It is therefore, requested to kindly implement the above mentioned judgment dated 17-12-2018 passed by the learned Khyber Pakhtunkhwa, service Tribunal, Peshawar within stipulated period.

I shall be very thankful to you for your this act of kindness.

Note:-

My service record as well as original Service Book etc is still in the custody of DEO(Male)Peshawar since long.

Thanks

Yours sincerely,



(Elahi Bakhsh)
Daftari
BPS-04

Surplus Adjusted the Then EDO,
Peshawar AS DATA Entry Operator &
PST GPS & Ghari Qamar Din &

ADDRESS:- House No.1,, Street No.04, Qaid Abad
Colony No.02 Peshawar.

Dated:- 18/03/2019

CELL No. 03339129939

DEO (Male) Peshawar
Diary
dateel
3146
19-03-2019

11

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA PESHAWAR

F. No A-23/Class-IV/ Viol-___AD
(Admn)

No _____
Dated Peshawar 27/06/2019

To.

The District Education Officer
(Male) Peshawar.

Subject: - ADJUSTMENT OF MR. ELAHI BAKHSH, DAFTARI AGAINST ANY SUITABLE POST

Memo:

I am directed to refer to the subject cited above and to enclose find herewith a self contained application in respect of Mr. Elahi Bakhsh Daftari appointed as Daftari at 06/01/1991 and later on he was adjusted as Elementary Teacher at GPS No 1 Garhi Qamar Din Peshawar vide order issued by the District Education Officer (M) Peshawar dated 25-06-2003 (Copy attached) but the Accountant General Khyber Pakhtunkhwa did not honored his salary/pay bill and returned the same and till date he has not been paid his salary. Copies of the relevant pages of the service book are attached.

Consequently the applicant has approached to the high-ups for the solution of his problems but all in vain. Finally he has filed an appeal in the Khyber Pakhtunkhwa Services Tribunal Peshawar for redressal of his grievances. The honorable Khyber Pakhtunkhwa Service Tribunal has ordered the Department to consider is appeal vide his judgment dated 17-12-2018 (copy attached)

You are therefore, directed to adjust the applicant at any suitable post (preferably as Laboratory Assistant) in district Peshawar under intimation to this office.

Assistant Director (Admn)
(E&SE) Khyber Pakhtunkhwa Peshawar

Endst: No 5227

Copy forwarded for information to:-

1. Mr. Elahi Bakhsh Daftari DEO (M) Peshawar
2. PA to Director (E&SE) Khyber Pakhtunkhwa Peshawar.
3. Master File.

[Signature]
Assistant Director (Admn)
(E&SE) Khyber Pakhtunkhwa Peshawar

27/6/19

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1932-36 ST

Dated 4-11- 2019


To

- ✓ 1. The Secretary E&SE Department,
Government of Khyber Pakhtunkhwa,
Peshawar.
2. The Director E&SE Department,
Government of Khyber Pakhtunkhwa,
Peshawar.
3. District Education Officer (Male),
Government of Khyber Pakhtunkhwa,
Peshawar.
4. District Education Officer (Female),
Government of Khyber Pakhtunkhwa,
Peshawar.
5. Accountant General,
Government of Khyber Pakhtunkhwa,
Peshawar.

SUBJECT: - ORDER IN EXECUTION PETITION NO. 333/2019, MR. ILAHI BAKHSI.

I am directed to forward herewith a certified copy of order dated 25.10.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Execution Petition No.333/2019 in Writ Petition 1303/2015

Elahi Bakhish..... Petitioner

VS

Director (E &SE) Khyber Pakhtunkhwa etc..... Respondents

**REPLY TO EXECUTION PETITION ON BEHALF OF RESPONDENT
DEPARTMENT.**

RESPECTFULLY SHEWETH.

- 1- That in reply to Para No.1, it is submitted that this Hon'ble Tribunal decided the said Appeal on 17-12-2018 and the respondent Department conducted inquiry in light of court judgment and the Appellant was found guilty, therefore, the Respondent Department removed him from his service.
(Copy of Removal Notification is attached as Annex: A)
- 2- That Para No.2 is incorrect, misleading and against the facts. The detail reply has been given in Para No.1.
- 3- That in reply to Para No.3, it is submitted that the Respondent Department conducted inquiry on dated 15-03-2019 and the inquiry officer found him guilty because he was absent from 25-06-2003 to till date.
(Copy of inquiry is attached as Annex: B)
- 4- That Para No.4 is incorrect, misleading and against the facts. The detail reply has been given in the fact Para.
- 5- That Para No.5 is incorrect, misleading and against the facts. The Respondent Department acted according to court judgment.

It is therefore, requested that on the acceptance of this reply, the execution application of the appellant may very kindly be dismissed.



District Education Officer
(Male) Peshawar.

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR

NOTIFICATION:-

1. WHEREAS Mr. Elahi Bakhsh S/o Karim Bakhsh was appointed at DEO (Female) Primary Peshawar as Daftari in BPS-02 vide Director, Primary Education NWFP Hayat Abad Peshawar appointment order No.3006-10 dated 06-01-1991.
3. AND WHEREAS he performed his duties regularly till 31-10-2001 & declare him as Surplus wef 01-11-2001.
4. AND WHEREAS he was adjusted against the post of Data Entry Operator on his own pay & scale at Distt Officer (M) Schools & Literacy Peshawar Vide No. 9925-30 dated 26-02-2003 & drawn his salary till -31-05-2003.
5. AND WHEREAS he was readjusted against the post Elementary Teacher BPS-05 at GMPS Garhi Qamardin Peshawar vide District Officer (Male) Primary Peshawar No.16642-55 dated 25-06-2003.
6. AND WHEREAS Mr. Elahi Bakhsh aggrieved from the stoppage of salary, he filed, before The Khyber Pakhtunkhwa service Tribunal Peshawar service appeal No.1303/2015 titled Elahi Bakhsh Vs Director (E&SE) KPK Peshawar, and Others against the respondents with prayer for the adjustment/ release of his monthly salary.
7. AND WHEREAS the case has been decided vide judgment dated 17-12-2018 passed by the Khyber Pakhtunkhwa service Tribunal Peshawar with the directions "to examine the relevant record as to whether the appellant has performed his duty regularly or he remained absent since 2003 and thereafter decide the departmental appeal through speaking order & the same may also be positively communicated to the appellant.
8. AND WHEREAS in compliance with orders of Director (E&SE) KP Peshawar, SDEO(M) Town-I Peshawar has conducted enquiry against the official concerned and the enquiry officer pointed out that the appellant has not ever performed duty at GMPS Garhi Qamar Din as Elementarily Teacher nor his named is shown in attendance register of the said school and he is still absent from duty w.e.f. 25-06-2019 till date.
9. AND WHEARAS, DEO (M) Peshawar being competent authority, after having considered the charges, evidence on record, enquiry report, facts of the case, is of the view that the charge of misconduct against the accused official has been proved.
10. AND NOW THEREFORE, in exercise of the Powers under Rules 4 (b) (iii), of the Govt: of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, the competent Authority, District Education Officer (Male) Peshawar, has been pleased to impose major penalty of "REMOVAL FROM SERVICE" upon Mr. Elahi Bakhsh Ex-Daftari DEO(M) Peshawar with immediate effect.

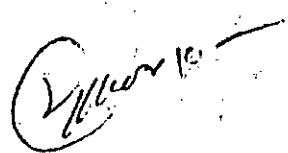
The intervening period wef 25-06-2003 till date is treated unauthorized absence from duty without pay under FR-85.

(Muhammad Idress Azam Khan)
District Education Officer
(Male) Peshawar.

27/6/2019

Copy forwarded to the:-

1. Registrar, The Khyber Pakhtunkhwa service Tribunal Peshawar in service appeal No.1303/2015 judgment dated 17-12-2018
2. Accountant General Khyber Pakhtunkhwa Peshawar.
3. PA to Director E&SE Khyber Pakhtunkhwa Peshawar.
4. SDEO (M) Concerned
5. ASDEO (M) Concerned
6. Official Concerned.
7. P/File.


07 District Education Officer
(Male) Peshawar



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ENQUIRY ASSIGNED TO

Mr. Misri Khan SDEO (M) Town 1 Peshawar has been assigned duty being an enquiry officer to conduct detail enquiry regarding Service Appeal in r/o Mr. Elahi Bakhsh C-IV on the direction of honorable Court Peshawar through respected Directorate (E&SE) Peshawar letter No. 4676-78 dated 15/03/2019.

BRIEF HISTORY OF THE CASE

It is stated that Mr. Elahi Bakhsh was appointed on 06-01-1991 as daftari in the District Education office (female) and was promoted to BPS-04 on 26-12-1995 as per service book record and awarded moreover from BPS-04 to BPS-05. Due to surplus policy of 2001 he was declared as surplus and adjusted as Data Entry operator in the office of EDO Peshawar on his own pay at dated 26-02-2003 as per S/book record.

Later on he was adjusted against the post of Elementary Teacher in BPS-05 in GPS Garhi Qamar Din Peshawar on 25-06-2003 as per record of S/book. Due to adjustment against the wrong post the A.G office stopped the salary of the said official. Since the stoppage of salary of the said official by AG office (25-06-2003) the official concern has not been submitted any written appeal to DEO (M) Peshawar or Director Elementary and Secondary

8/1

Education Peshawar till 04-08-2015. Mr. Elahi Bakhsh remained mum / silent from 25-06-2003 to 04-08-2015 about 12 years and did not appeal to any concerned authority / department regarding the stoppage of his salary and adjustment since 2003. After silence and laps of 12 years the said Mr. Elahi Bakhsh submitted departmental appeal on 04/08/2015 in this connection the inquiry officer informed the appellant and the appellant appeared before the inquiry officer. The inquiry officer served questioner. The inquiry officer also informed the Ex-head teacher as well as the existing head teacher of GPS Garhi Qamar Din and he also appeared before the inquiry officer and recorded his statements.

THE FOLLOWING DOCUMENTS ARE ATTACHED AS ANNEXURE.

1. Teachers Attendance Register photo copy (attached as annexure A).
2. Statement of Ex-PSHT GPS Garhi Qamar Din (attached as annexure B).
3. Statement of present PSHT GPS Garhi Qamar Din (attached as annexure C).

INDINGS/CONCLUSSION

As per statement of head teacher GPS Garhi Qamar Din Peshawar and perusal of concerned school Teachers Attendance Register shows that the appellant after adjustment in the cited school has never ever performed duty nor took charge as Elementary Teacher. Furthermore the teacher concerned willfully remained absent w-e-f 25/06/2003 till date for the period of 16 years and he failed to appeal to the department for a long period of 12 years. His appeal after a laps of 12 years seems to be based on malifide intention and thus not considerable. Furthermore the absence period for about 16 years is too much to be treated as leave without pay or any other kind of leave as admissible under the rules. Moreover the appellant failed to submit cogent reason for his willful absence for the cited period. Hence the prayer of the appellant is not justified and thus it is proposed that,

1. DEO (M) Peshawar may be asked to submit the detail report regarding action taken against the concerned C-IV Mr. Elahi Bakhsh during absent period w-e-f 25/06/2003 to till date.
2. Being competent authority DEO (M) Peshawar may be asked to decide the case at his own level.


SDEO (M) Peshawar
Town Peshawar

Before the Honble Chairman KPK Service

Execution Petition

Tribunal Peshawar

Elehi Bakhsh

Appellant 2 بنجاب
بنام

VS
Director (EKSE)
and others.

مورد

مقدمہ

دعوی

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے وابستہ پیروی و جواب دہی و کل کارروائی متعلقہ

آن مقام Rizwanullah Advocate Peshawar کیلئے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی بزمانگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے

اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے

سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں

گے۔ کہ پیروی مذکور کریں۔ لہذا کالت نامہ لکھ دیا کہ سندر ہے۔

2020 February 19th

المقام

Attashed & accepted
Rizwanullah Advocate
کے لئے منظور ہے

الع
والع
والع
Peshawar

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Execution Petition No. 333/2019 in Appeal Petition 1303/2015

Elahi Bakhish..... Petitioner

VS


Director (E & SE) Khyber Pakhtunkhwa etc..... Respondents

**REPLY TO EXECUTION PETITION ON BEHALF OF RESPONDENT
DEPARTMENT.**

RESPECTFULLY SHEWETH.

- 1- That in reply to Para No.1, it is submitted that this Hon'ble Tribunal decided the said Appeal on 17-12-2018 and the respondent Department conducted inquiry in light of court judgment and the Appellant was found guilty, therefore, the Respondent Department removed him from his service.
(Copy of Removal Notification is attached as Annex: A)
- 2- That Para No.2 is incorrect, misleading and against the facts. The detail reply has been given in Para No.1.
- 3- That in reply to Para No.3, it is submitted that the Respondent Department conducted inquiry on dated 15-03-2019 and the inquiry officer found him guilty because he was absent from 25-06-2003 to till date.
(Copy of inquiry is attached as Annex: B)
- 4- That Para No.4, is incorrect, misleading and against the facts. The detail reply has been given in the fact Para.
- 5- That Para No.5 is incorrect, misleading and against the facts. The Respondent Department acted according to court judgment.

It is therefore, requested that on the acceptance of this reply, the execution application of the appellant may very kindly be dismissed.


District Education Officer
(Male) Peshawar.

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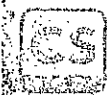
ENQUIRY ASSIGNED TO

Mr. Misri Khan SDEO (M) Town 1 Peshawar has been assigned duty being an enquiry officer to conduct detail enquiry regarding Service Appeal in r/o Mr. Elahi Bakhsh C-IV on the direction of honorable Court Peshawar through respected Directorate (E&SE) Peshawar letter No. 4676-78 dated 15/03/2019.

BRIEF HISTORY OF THE CASE

It is stated that Mr. Elahi Bakhsh was appointed on 06-01-1991 as daftari in the District Education office (female) and was promoted to BPS-04 on 26-12-1995 as per service book record and awarded moreover from BPS-04 to BPS-05. Due to surplus policy of 2001 he was declared as surplus and adjusted as Data Entry operator in the office of EDO Peshawar on his own pay at dated 26-02-2003 as per S/book record.

Later on he was adjusted against the post of Elementary Teacher in BPS-05 in GPS Garhi Qamar Din Peshawar on 25-06-2003 as per record of S/book. Due to adjustment against the wrong post the A.G office stopped the salary of the said official. Since the stoppage of salary of the said official by AG office (25-06-2003) the official concern has not been submitted any written appeal to DEO (M) Peshawar or Director Elementary and Secondary



Amnethane

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR

NOTIFICATION:-

1. WHEREAS Mr. Elahi Bakhsh S/o Karim Bakhsh was appointed at DEO (Female) Primary Peshawar as Daftari in BPS-02 vide Director, Primary Education NWFP Hayat Abad Peshawar appointment order No. 3006-10 dated 06-01-1991.
- 3 AND WHEREAS he performed his duties regularly till 31-10-2001 & declare him as Surplus wef 01-11-2001.
- 4 AND WHEREAS he was adjusted against the post of Data Entry Operator on his own pay & scale at Distt Officer (M) Schools & Literacy Peshawar Vide No. 9925-30 dated 26-02-2003 & drawn his salary till -31-05-2003.
- 5 AND WHEREAS he was readjusted against the post Elementary Teacher BPS-05 at GMPS Garhi Qamardin Peshawar vide District Officer (Male) Primary Peshawar No. 16642-55 dated 25-06-2003.
- 6 AND WHEREAS Mr. Elahi Bakhsh aggrieved from the stoppage of salary, he filed, before The Khyber Pakhtunkhwa service Tribunal Peshawar service appeal No. 1303/2015 titled Elahi Bakhsh Vs Director (E&SE) KPK Peshawar, and Others against the respondents with prayer for the adjustment/ release of his monthly salary.
- 7 AND WHEREAS the case has been decided vide judgment dated 17-12-2018 passed by the Khyber Pakhtunkhwa service Tribunal Peshawar with the directions "to examine the relevant record as to whether the appellant has performed his duty regularly or he remained absent since 2003 and thereafter decide the departmental appeal through speaking order & the same may also be positively communicated to the appellant.
- 8 AND WHEREAS in compliance with orders of Director (E&SE) KP Peshawar, SDEO(M) Town-I Peshawar has conducted enquiry against the official concerned and the enquiry officer pointed out that the appellant has not never ever performed duty at GMPS Garhi Qamar Din as Elementarily Teacher nor his named is shown in attendance register of the said school and he is still absent from duty w.e.f. 25-06-2019 till date.
- 9 AND WHEARAS, DEO (M) Peshawar being competent authority, after having considered the charges, evidence on record, enquiry report, facts of the case, is of the view that the charge of misconduct against the accused official has been proved.
- 10 AND NOW THEREFORE, in exercise of the Powers under Rules 4 (b) (iii), of the Govt: of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, the competent Authority, District Education Officer (Male) Peshawar, has been pleased to impose major penalty of "REMOVAL FROM SERVICE" upon Mr. Elahi Bakhsh Ex-Daftari DEO(M) Peshawar with immediate effect.

The intervening period wef 25-06-2003 till date is treated unauthorized absence from duty without pay under FR-85.

(Muhammad Idress Azam Khan)
District Education Officer
(Male) Peshawar.

87/ (

Education Peshawar till 04-08-2015. Mr. Elahi Bakhsh remained mum / silent from 25-06-2003 to 04-08-2015 about 12 years and did not appeal to any concerned authority / department regarding the stoppage of his salary and adjustment since 2003. After silence and laps of 12 years the said Mr. Elahi Bakhsh submitted departmental appeal on 04/08/2015 in this connection the inquiry officer informed the appellant and the appellant appeared before the inquiry officer. The inquiry officer served questioner. The inquiry officer also informed the Ex-head teacher as well as the existing head teacher of GPS Garhi Qamar Din and he also appeared before the inquiry officer and recorded his statements.

THE FOLLOWING DOCUMENTS ARE ATTACHED AS ANNEXURE.

1. Teachers Attendance Register photo copy (attached as annexure A).
2. Statement of Ex-PSHT GPS Garhi Qamar Din (attached as annexure B).
3. Statement of present PSHT GPS Garhi Qamar Din (attached as annexure C).



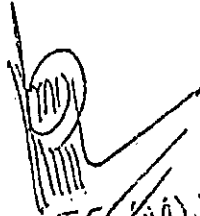
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INDINGS/CONCLUSION

As per statement of head teacher GPS Garhi Qamar Din Peshawar and perusal of concerned school Teachers Attendance Register shows that the appellant after adjustment in the cited school has never ever performed duty nor took charge as Elementary Teacher. Furthermore the teacher concerned willfully remained absent w-e-f 25/06/2003 till date for the period of 16 years and he failed to appeal to the department for a long period of 12 years. His appeal after a laps of 12 years seems to be based on malifide intention and thus not considerable. Furthermore the absence period for about 16 years is too much to be treated as leave without pay or any other kind of leave as admissible under the rules. Moreover the appellant failed to submit cogent reason for his willful absence for the cited period. Hence the prayer of the appellant is not justified and thus it is proposed that,

1. DEO (M) Peshawar may be asked to submit the detail report regarding action taken against the concerned C-IV Mr. Elahi Bakhsh during absent period w-e-f 25/06/2003 to till date.
2. Being competent authority DEO (M) Peshawar may be asked to decide the case at his own level.


SDES (M) Psh
Town 1 Peshawar





NOTIFICATION

1. **WHEREAS**, Mr. Elahi Bakhsh appellant had submitted his service appeal in the Khyber Pakhtunkhwa Service Tribunal Peshawar vide appeal No 1303/15 titled "Elahi Bakhsh verses Director E&SE and others" for adjustment /release of monthly salary.
2. **AND WHEREAS**, the Khyber Pakhtunkhwa Service Tribunal converted his appeal in presentation vide judgment dated 17/12/2018 with the direction to Director E&SE KP, "To Examine the relevant record as to whether, the appellant has performed his duty or he remained absent since 2003 and thereafter decided the departmental appeal within period of 90 days from receipt of copy of this judgment through speaking order.
3. **AND WHEREAS**, to find out the factual position of the case, the Director (Appellate Authority) conducted enquiry by appointing Mr. Misri Khan Ex-SDEO (M) Town-I Peshawar vide office order No 4676-78 dated 15/03/2019.
4. **AND WHEREAS**, the enquiry officer submitted his report dated 09/05/2019, wherein it has been found that Mr. Elahi Bakhsh remained absent from duty since his adjustment as Elementary Teacher from 25/06/2003 to date i.e 09/05/2019, as there is no record of his attendance in the concerned school.
5. **AND WHEREAS**, Mr. Elahi Bakhsh Ex-Daftari DEO (F) Peshawar subsequently adjusted as key punch operator/Elementary Teacher BPS-05 at GMPS Ghari Qamar Din Peshawar was proceeded under E&D Rules 2011 and removed from service vide Notification issued under Endt.No. 944-50 dated 09/10/2019 by the District Education Officer (M) Peshawar.
6. **AND WHEREAS**, The Director E&SE Khyber Pakhtunkhwa, Appellate Authority after having considered the findings/recommendations of the enquiry officer and perusal of record is satisfied that the charge of willful absence from duty has been proved against the appellant Mr. Elahi Baksh, Ex-Daftari/Elementary Teacher.
7. **NOW, THEREFORE**, the Appellate authority the Director E&SE KP under the provision of Rules-17 2(a) of E&D Rules-2011 has decided to uphold the major penalty of removal from service in r/o Mr. Elahi Bakhsh Ex-Daftari/Elementary Teacher GMPS Ghari Qamar Din Notified by the DEO (M) Peshawar vide Notification No 944-50 dated 09/10/2019.

Director

Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: No. 7616-19 /F.No. /A-23/MS/ElahiBakhsh Dated Peshawar the 16/3/2020.

Copy of the above is forwarded for information and n/action to the:-

- 1- District Education Officer (Male) Peshawar
- 2- District Account Officer Peshawar.
- 3- Appellant concerned.
- 4- PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.

Amir 13/3/20
Assistant Director (Admn)

Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

District Education Officer

(Male) Peshawar

No. 5590

Dated 22/01/2020

To,

The Director (E &SE)
KPK Peshawar.

Subject: -

PROVISION THE COPY OF ORDER OF DEPARTMENTAL APPELLATE AUTHORITY DECISION IN LIGHT OF JUDGMENT DATED 17-12-2018 IN SERVICE APPEAL NO.1303/2015 TITLED ELAHI BAKHSH VS GOVT: FOR EXECUTION PETITION NO.333/2019.

Memo:

It is stated that the above subject case was fixed on 08-01-2020 in Service Tribunal KPK Peshawar and was decided on 17-12-2018 with the direction that "we deem it appropriate to direct the departmental authority i.e. Director Elementary & Secondary Education Khyber Pakhtunkhwa to examine the relevant record as to whether the appellant has performed his duty regularly or he remained absent since 2003 and thereafter decide the departmental appeal with in a period of Ninety (90) days from receipt the copy of this judgment though speaking order. The same order also be positively communicated to the appellant and therefore, if the appellant was aggrieved" now the appellant filed Execution Petition 2019 in the instant Execution Petition and fixed on date 08-01-2020 at the Hon'ble Service Tribunal issue direction "the representative of respondent department seeks time to made available the copy of the order of departmental appellate authority regarding decision of appeal of petitioner as required as judgment under implementation adjourned to 20-02-2020 for further proceedings before S.B"

Therefore, it is requested to provide a copy of decision to submit it in the Hon'ble Service Tribunal on 20-02-2020.

Note. Order sheet is annexed.

Endst: No. 5591-93 Dated 22/01/2020

Copy forwarded to the:-

1. Registrar Service Tribunal KPK Peshawar.
2. P.S to Secretary (E &SE) KPK Peshawar.
3. Office file.

District Education Officer
(Male) Peshawar

District Education Officer
(Male) Peshawar



NOTIFICATION

1. **WHEREAS**, Mr. Elahi Bakhsh appellant had submitted his service appeal in the Khyber Pakhtunkhwa Service Tribunal Peshawar vide appeal No 1303/15 titled "Elahi Bakhsh verses Director E&SE and others" for adjustment /release of monthly salary.
2. **AND WHEREAS**, the Khyber Pakhtunkhwa Service Tribunal converted his appeal in presentation vide judgment dated 17/12/2018 with the direction to Director E&SE KP, "To Examine the relevant record as to whether, the appellant has performed his duty or he remained absent since 2003 and thereafter decided the departmental appeal within period of 90 days from receipt of copy of this judgment through speaking order.
3. **AND WHEREAS**, to find out the factual position of the case, the Director (Appellate Authority) conducted enquiry by appointing Mr. Misri Khan Ex-SDEO (M) Town-I Peshawar vide office order No 4676-78 dated 15/03/2019.
4. **AND WHEREAS**, the enquiry officer submitted his report dated 09/05/2019, wherein it has been found that Mr. Elahi Bakhsh remained absent from duty since his adjustment as Elementary Teacher from 25/06/2003 to date i.e 09/05/2019, as there is no record of his attendance in the concerned school.
5. **AND WHEREAS**, Mr. Elahi Bakhsh Ex-Daftari DEO (F) Peshawar subsequently adjusted as key punch operator/Elementary Teacher BPS-05 at GMPS Ghari Qamar Din Peshawar was proceeded under E&D Rules 2011 and removed from service vide Notification issued under Endt.No. 944-50 dated 09/10/2019 by the District Education Officer (M) Peshawar.
6. **AND WHEREAS**, The Director E&SE Khyber Pakhtunkhwa, Appellate Authority after having considered the findings/recommendations of the enquiry officer and perusal of record is satisfied that the charge of willful absence from duty has been proved against the appellant Mr. Elahi Baksh, Ex-Daftari/Elementary Teacher.
7. **NOW, THEREFORE**, the Appellate authority the Director E&SE KP under the provision of Rules-17 2(a) of E&D Rules-2011 has decided to uphold the major penalty of removal from service in r/o Mr. Elahi Bakhsh Ex-Daftari/Elementary Teacher GMPS Ghari Qamar Din Notified by the DEO (M) Peshawar vide Notification No 944-50 dated 09/10/2019.

Director
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: No. 7616-19 /F.No. /A-23/MS/ElahiBakhsh Dated Peshawar the 16/3/2020.

Copy of the above is forwarded for information and n/action to the:-

- 1- District Education Officer (Male) Peshawar
- 2- District Account Officer Peshawar.
- 3- Appellant concerned.
- 4- PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.

Amir 13/3/20
Assistant Director (Admn)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

VAKALAT NAMA

NO. _____/20

IN THE COURT OF KP Service Tribunal, Peshawar

Elahi Bakhsh

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Directorate E&SE

(Respondent)
(Defendant)

I/We, Elahi Bakhsh

Do hereby appoint and constitute **SYED NOMAN ALI BUKHARI Advocate High Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20



(CLIENT)

ACCEPTED


SYED NOMAN ALI BUKHARI
Advocate High Court Peshawar.

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR

NOTIFICATION:-

1. WHEREAS Mr.Elahi Bakhsh S/o Karim Bakhsh was appointed at DEO(Female) Primay Peshawar as Daftari in BPS-02 vide Director, Primay Education NWFP Hayat Abad Peshawar appointment order No.3006-10 dated 06-01-1991.
- 2 AND WHEREAS he performed his duties regularly till 31-10-2001 & declare him as Surplus wef 01-11-2001.
- 3 AND WHEREAS he was adjusted against the post of Data Entry Operator on his own pay & scale at Dist Officer (M) Schools & Literacy Peshawar Vide No. 9925-30 dated 26-02-2003 & drawn his salary till -31-05-2003.
- 4 AND WHEREAS he was readjusted against the post Elementary Teacher BPS-05 at GMPS Garhi Qamardin Peshawar vide District Officer (Male) Primary Peshawar No.16642-55 dated 25-06-2003.
- 5 AND WHEREAS Mr.Elahi Bakhsh aggrieved from the stoppage of salary, he filed, before The Khyber Pakhtunkhwa service Tribunal Peshawar service appeal No.1303/2015 titled Elahi Bakhsh Vs Director (E&SE) KPK Peshawar, and Others against the respondents with prayer for the adjustment/ release of his monthly salary.
- 6 AND WHEREAS the case has been decided vide judgment dated 17-12-2018 passed by the Khyber Pakhtunkhwa service Tribunal Peshawar with the directions "to examine the relevant record as to whether the appellant has performed his duty regularly or he remained absent since 2003 and thereafter decide the departmental appeal through speaking order & the same may also be positively communicated to the appellant."
- 7 AND WHEREAS in compliance with orders of Director (E&SE) KP Peshawar, SDEO(M) Town-I Peshawar has conducted enquiry against the official concerned and the enquiry officer pointed out that the appellant has not never ever performed duty at GMPS Garhi Qamar Din as Elementarily Teacher nor his named is shown in attendance register of the said school and he is still absent from duty w.e.f. 25-06-2019 till date.
- 8 AND WHEARAS, DEO (M) Peshawar being competent authority, alier having considered the charges, evidence on record, enquiry report, facts of the case, is of the view that the charge of misconduct against the accused official has been proved.
- 9 AND NOW THEREFORE, in exercise of the Powers under Rules 4 (b) (iii), of the Govt. of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, the competent Authority, District Education Officer (Male) Peshawar, has been pleased to impose major penalty of "REMOVAL FROM SERVICE" upon Mr. Elahi Bakhsh Ex-Daftari DEO(M) Peshawar with immediate effect.

The intervening period wef 25-06-2003 till date is treated unauthorized absence from duty without pay under FR-85.

(Muhammad Idress Azam Khan)
District Education Officer
(Male) Peshawar.

Endst. No. 9611-50 P/Elahi Baksh daftari dated Peshawar the 26/11/2019



NOTIFICATION

1. **WHEREAS**, Mr. Elahi Bakhsh appellant had submitted his service appeal in the Khyber Pakhtunkhwa Service Tribunal Peshawar vide appeal No 1303/15 titled "Elahi Bakhsh verses Director E&SE and others" for adjustment /release of monthly salary.
2. **AND WHEREAS**, the Khyber Pakhtunkhwa Service Tribunal converted his appeal in presentation vide judgment dated 17/12/2018 with the direction to Director E&SE KP, "To Examine the relevant record as to whether, the appellant has performed his duty or he remained absent since 2003 and thereafter decided the departmental appeal within period of 90 days from receipt of copy of this judgment through speaking order.
3. **AND WHEREAS**, to find out the factual position of the case, the Director (Appellate Authority) conducted enquiry by appointing Mr. Misri Khan Ex-SDEO (M) Town-I Peshawar vide office order No 4676-78 dated 15/03/2019.
4. **AND WHEREAS**, the enquiry officer submitted his report dated 09/05/2019, wherein it has been found that Mr. Elahi Bakhsh remained absent from duty since his adjustment as Elementary Teacher from 25/06/2003 to date i.e 09/05/2019, as there is no record of his attendance in the concerned school.
5. **AND WHEREAS**, Mr. Elahi Bakhsh Ex-Daftari DEO (F) Peshawar subsequently adjusted as key punch operator/Elementary Teacher BPS-05 at GMPS Ghari Qamar Din Peshawar was proceeded under E&D Rules 2011 and removed from service vide Notification issued under Endt.No. 944-50 dated 09/10/2019 by the District Education Officer (M) Peshawar.
6. **AND WHEREAS**, The Director E&SE Khyber Pakhtunkhwa, Appellate Authority after having considered the findings/recommendations of the enquiry officer and perusal of record is satisfied that the charge of willful absence from duty has been proved against the appellant Mr. Elahi Baksh, Ex-Daftari/Elementary Teacher.
7. **NOW, THEREFORE**, the Appellate authority the Director E&SE KP under the provision of Rules-17 2(a) of E&D Rules-2011 has decided to uphold the major penalty of removal from service in r/o Mr. Elahi Bakhsh Ex-Daftari/Elementary Teacher GMPS Ghari Qamar Din Notified by the DEO (M) Peshawar vide Notification No 944-50 dated 09/10/2019.

Director
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

2616-19
Endst: No. 7616-19 /F.No. /A-23/MS/ElahiBakhsh Dated Peshawar the 16/3/2020.

Copy of the above is forwarded for information and n/action to the:-

- 1- District Education Officer (Male) Peshawar
- 2- District Account Officer Peshawar.
- 3- Appellant concerned.
- 4- PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.

Asst Dir 13/3/20
Assistant Director (Admn)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

8/11 ✓
OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR

NOTIFICATION:-

- 1: **WHEREAS** Mr.Elahi Bakhsh S/o Karim Bakhsh was appointed at DEO(Female) Primay Peshawar as Daftari in BPS-02 vide Director, Primay Education NWFP Hayat Abad Peshawar appointment order No.3006-10 dated 06-01-1991.
- 3 **AND WHEREAS** he performed his duties regularly till 31-10-2001 & declare him as Surplus wef 01-11-2001.
- 4 **AND WHEREAS** he was adjusted against the post of Data Entry Operator on his own pay & scale at Distt Officer (M) Schools & Literacy Peshawar Vide No. 9925-30 dated 26-02-2003 & drawn his salary till -31-05-2003 .
- 5 **AND WHEREAS** he was readjusted against the post Elementary Teacher BPS-05 at GMPS Garhi Qamardin Peshawar vide District Officer (Male) Primary Peshawar No.16642-55 dated 25-06-2003.
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- 8 **AND WHEREAS** in compliance with orders of Director (E&SE) KP Peshawar, SDEO(M) Town-I Peshawar has conducted enquiry against the official concerned and the enquiry officer pointed out that the appellant has not never ever performed duty at GMPS Garhi Qamar Din as Elementarily Teacher nor his named is shown in attendance register of the said school and he is still absent from duty w.e.f. 25-06-2019 till date.
- 9 **AND WHEARAS, DEO (M) Peshawar** being competent authority, after having considered the charges, evidence on record, enquiry report, facts of the case, is of the view that the charge of misconduct against the accused official has been proved.
- 10 **AND NOW THEREFORE**, in exercise of the Powers under Rules 4 (b) (iii), of the Govt: of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, the competent Authority, District Education Officer (Male) Peshawar, has been pleased to impose major penalty of "REMOVAL FROM SERVICE "upon Mr. Elahi Bakhsh Ex-Daftari DEO(M) Peshawar with immediate effect.

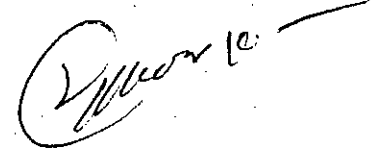
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(Muhammad Idriss Azara Khan)
District Education Officer
(Male) Peshawar.

Endst: No. 944-50 / P/File-Elahi Baksh dafatri dated Peshawar the 09/10 /2019

Copy forwarded to the:-

1. Registrar, The Khyber Pakhtunkhwa service Tribunal Peshawar in service appeal No.1303/2015 judgment dated 17-12-2018
2. Accountant General Khyber Pakhtunkhwa Peshawar.
3. PA to Director E&SE Khyber Pakhtunkhwa Peshawar.
4. SDEO (M) Concerned
5. ASDEO (M) Concerned
6. Official Concerned.
7. P/File.



07 District Education Officer
(Male) Peshawar



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

Phone: 091-9225344

Email: ddadmh.es@gmail.com

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NOTIFICATION

D. APPR 139

1. WHEREAS, Mr. Elahi Bakhsh appellant had submitted his service appeal in the Khyber Pakhtunkhwa Service Tribunal Peshawar vide appeal No. 1303/15 titled "Elahi Bakhsh verses Director E&SE and others" for adjustment /release of monthly salary.
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Director

Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: No. 2616-19 F.No. /A-23/MS/ElahiBakhsh Dated Peshawar the 16/3/2020.

Copy of the above is forwarded for information and n/action to the:-

- 1- District Education Officer (Male) Peshawar
- 2- District Account Officer Peshawar.
- 3- Appellant concerned.
- 4- PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.

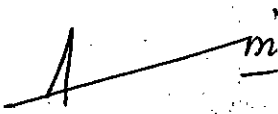

Assistant Director (Admn)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

Form-A

FORM OF ORDER SHEET

Court of _____

Appeals Restoration Application No. 425/2022

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	28.07.2022	<p>The application for restoration of execution petition no. 333/2019 in service appeal no. 1303/2015 submitted by Uzma Syed Advocate may be entered in the relevant register and put up to the Court for proper order please. This restoration application is entrusted to S. Bench to be put up there on <u>5-8-22</u></p> <p style="text-align: right;">  REGISTRAR Counsel for the petitioner present. </p> <p>Notice be issued to respondents for submission of implementation report. To come up for implementation report on 23.09.2022 before S.B.</p> <p style="text-align: right;">  (Fareeha Paul) Member (E) </p>
05.08.2022		

SCANNED
KPST
Peshawar